

00-1914 (DRD)

AO 243 (Rev. 5/85)

MOTION UNDER 28 USC § 2255 TO VACATE, SET ASIDE, OR CORRECT  
SENTENCE BY A PERSON IN FEDERAL CUSTODY

<b>United States District Court</b>		District District of Puerto Rico.
Name of Movant Victor M. Villega-Angulo	Prisoner No. 19157-069	Case No. 3:99-cr-295
Place of Confinement USP Coleman, Coleman, Florida		

UNITED STATES OF AMERICA

v. Victor M. Villega-Angulo,  
(name under which convicted)**MOTION**1. Name and location of court which entered the judgment of conviction under attack United States District Court, District of Puerto Rico

2. Date of judgment of conviction \_\_\_\_\_

3. Length of sentence Life Without Parole4. Nature of offense involved (all counts) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. What was your plea? (Check one)

(a) Not guilty ☒(b) Guilty ☐(c) Nolo contendere ☐

If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, give details:

N/A  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. If you pleaded not guilty, what kind of trial did you have? (Check one)

(a) Jury ☒(b) Judge only ☐

7. Did you testify at the trial?

Yes ☐ No ☒

8. Did you appeal from the judgment of conviction?

Yes ☒ No ☐RECEIVED & FILED  
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AO 243 (Rev. 5/85)

9. If you did appeal, answer the following:

(a) Name of court First Circuit Court of Appeals(b) Result Affirmed

(c) Date of result \_\_\_\_\_

10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications or motions with respect to this judgment in any federal court?

Yes ☐ No ☒

11. If your answer to 10 was "yes," give the following information:

(a) (1) Name of court N/A(2) Nature of proceeding N/A(3) Grounds raised N/A

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes ☐ No ☒N/A

(5) Result \_\_\_\_\_

(6) Date of result N/A

(b) As to any second petition, application or motion give the same information:

(1) Name of court N/A(2) Nature of proceeding N/A(3) Grounds raised N/A

AO 243 (Rev. 5/85)

- (4) Did you receive an evidentiary hearing on your petition, application or motion?  
 Yes ☐ No ☒ XXX

(5) Result \_\_\_\_\_ N/A

(6) Date of result \_\_\_\_\_ N/A

- (c) Did you appeal, to an appellate federal court having jurisdiction, the result of action taken on any petition, application or motion?

(1) First petition, etc. Yes ☐ No ☒ XXX N/A

(2) Second petition, etc. Yes ☐ No ☒ XXXX

- (d) If you did not appeal from the adverse action on any petition, application or motion, explain briefly why you did not:

N/A

12. State *concisely* every ground on which you claim that you are being held in violation of the constitution, laws or treaties of the United States. Summarize briefly the facts supporting each ground. If necessary, you may attach pages stating additional grounds and facts supporting same.

CAUTION: If you fail to set forth all ground in this motion, you may be barred from presenting additional grounds at a later date.

For your information, the following is a list of the most frequently raised grounds for relief in these proceedings. Each statement preceded by a letter constitutes a separate ground for possible relief. You may raise any grounds which you have other than those listed. However, you should raise in this motion all available grounds (relating to this conviction) on which you based your allegations that you are being held in custody unlawfully.

Do not check any of these listed grounds. If you select one or more of these grounds for relief, you must allege facts. The motion will be returned to you if you merely check (a) through (j) or any one of the grounds.

- (a) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily or with understanding of the nature of the charge and the consequences of the plea.
- (b) Conviction obtained by use of coerced confession.

AO 243 (Rev. 5/85)

- (c) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure.
- (d) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest.
- (e) Conviction obtained by a violation of the privilege against self-incrimination.
- (f) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- (g) Conviction obtained by a violation of the protection against double jeopardy.
- (h) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impanelled.
- (i) Denial of effective assistance of counsel.
- (j) Denial of right of appeal.

A. Ground one: Ineffective Assistance of Counsel/Deprivation of petitioner's right to confrontation.

Supporting FACTS (state *briefly* without citing cases or law) The petitioner contends that he suffered a Sixth Amendment right violation of ineffective assistance of counsel and his Fifth Amendment right to a fair trial, where the prosecution presented testimony through witnesses during the trial, and the witnesses testified to information that was allegedly obtained from an non-testifying witness, whom which the petitioner could not cross examine for truthfulness and accuracy.

B. Ground two: Ineffective Assistance of Counsel/Erroneous sentence to extra verdict enhancements, instead of offense of conviction.

Supporting FACTS (state *briefly* without citing cases or law): The petitioner contends that he suffered a Sixth Amendment right violation of ineffective assistance of counsel, where his attorney allowed him to be sentenced based on after verdict enhancements for murder, where he was not tried and convicted for murder.

C. Ground three: Ineffective Assistance of counsel/Application of Apprendi, Blakely, and Booker.

Supporting FACTS (state *briefly* without citing cases or law): The petitioner contends that his attorney was ineffective for failing to preserve and/or argue on direct appeal the application of the Supreme Court's rulings in Apprendi,

AO 243 (Rev. 5/85)

Blakely, and Booker, where his sentence was constitutionally contrary to his conviction, and was not based on facts charged in the indictment, presented to the jury, nor proven beyond a reasonable doubt.

D. Ground four: \_\_\_\_\_

Supporting FACTS (state *briefly* without citing cases or law): \_\_\_\_\_

All other claims are to be presented to the court upon the the petitioner receiving his case file and needed and necessary documents.

13. If any of the grounds listed in 12A, B, C, and D were not previously presented, state briefly what grounds were not so presented, and give your reasons for not presenting them: \_\_\_\_\_

All of the present claims are being raised because of trial and appellate counsel's failure to preserve the claims in the district court, and counsel's failure to raise the issues on direct appeal .

14. Do you have any petition or appeal now pending in any court as to the judgment under attack?  
Yes ☐ No ☒ N/A

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein:

(a) At preliminary hearing Elaine Mittleman, 2040 Arch Drive, Falls Church, VA  
22043

(b) At arraignment and plea Same as above

(c) At trial Same as above

(d) At sentencing Same as above

AO 243 (Rev. 5/85)

(e) On appeal Same as above(f) In any post-conviction proceeding N/A(g) On appeal from any adverse ruling in a post-conviction proceeding N/A

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at approximately the same time?

Yes ☐ No ☒ N/A

17. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?

Yes ☐ No ☒ N/A

(a) If so, give name and location of court which imposed sentence to be served in the future: \_\_\_\_\_

N/A(b) Give date and length of the above sentence: N/A

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?

Yes ☐ No ☒ N/A

Wherefore, movant prays that the Court grant him all relief to which he may be entitled in this proceeding.

\_\_\_\_\_  
Signature of Attorney (if any)

I declare under penalty of perjury that the foregoing is true and correct. Executed on

X set 4 06  
(date)X Victor M Villegas  
Signature of Movant